

MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: New Business

Report Prepared by: Richard Pio Roda, Terry Medina
and Tom Williams

Public Hearing: Yes: _____ No: X

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TITLE: **PLANNING COMMISSION UPDATE ON CONFLICTS OF INTEREST, THE BROWN ACT, OPEN GOVERNMENT ORDINANCE AND ROBERT'S RULES OF ORDER**

Proposal: Presentation of Conflicts of Interest, the Brown Act, Open Government Ordinance and Robert's Rules of Order

Location: N/A

APN: N/A

RECOMMENDATION: No action required. Information only.

Applicant: N/A

Property Owner: N/A

Previous Action(s): N/A

General Plan Designation: N/A

Present Zoning: N/A

Existing Land Use: N/A

Agenda Sent To: N/A

Attachments:
- Planning Commission Training, Open Government Ordinance, Conflicts of Interest and Parliamentary Procedures PowerPoint Presentation
- Introduction to the City of Milpitas City Officials Event Calendar PowerPoint Presentation

BACKGROUND

Richard Pio Roda, City Attorney, Terry Medina, Deputy Director of Information Services and Tom Williams, Planning and Neighborhood Services Director, will make a presentation at the meeting.

RECOMMENDATION

No action required. Information only.

Planning Commission Training

Open Government Ordinance

Conflicts of Interest

Parliamentary Procedures



Today's Training

- Highlights of the Open Gov't Ordinance
 - Enhances Public Meeting (Brown Act) and Public Records maintenance and disclosure laws
 - Requires Registration of Lobbyists
 - Creates a “Public Officials’ Calendar”
- Conflicts of Interest (Political Reform Act, Gov't Code 1090, Incompatible Offices)
- Robert's Rules of Order: Proper Public Meeting management

Public Meeting Requirements

- Brown Act enhancements
 - 8 calendar days agenda posting
 - “Know your Rights” notice
 - Written comment policy
 - Barriers to attendance
 - Meetings: Tape/Film recording and still photography
 - Testimony and Comment
 - Conflict-of-Interest Disclosure

Public Records: Maintenance and Disclosure

- Administrative Appeal
 - 10 day “record exempt” response
 - 7 day “form/content” response
 - Supervisor of record petition process
- City policy to use technology for public records management
- Oral Public Information
- Policy Body Communications
- Required Disclosure of certain records
 - Enhanced rights to records listing gross earnings by job title.
- Records index
- Internet access

Creates Lobbyist Registration Requirements

- Register and file report with City Clerk
 - General nature of issues trying to influence
 - Campaign contributions to elected officials
 - Fundraising activities on behalf of City officials
 - Contributions at the behest of City officials
 - Compensation received for services to City
 - Compensated work as a campaign consultant
- Registration fee (Open Government Commission)
- Requires registration of Lobbyists working on behalf of the City

Creates “Public Officials’ Calendar”

- Maintenance of a Daily Calendar
 - Applies to the Mayor, City Council, Planning Commission & City Manager
 - Must maintain a calendar with the time, place, general nature of issues discussed and attendees of meetings
 - The calendar is a public record
- Exception for Calendar Entries
 - Purely personal, social events where no City business is discussed
- Exemption from entry on the Calendar
 - Meetings regarding personnel issues

Other Regulations...

Solicitation of Donations by Elected Officials

- Applies to: Solicitation of donations by elected officials for charitable purposes and third party political campaigns
- Donations over \$100, must be reported quarterly

Restriction/Prohibition on Certain Activities of Former Officials

- Applies to the Mayor, City Council and Planning Commission Members
- Prohibited from using experience or contacts to assist any applicant through the permitting process

Conflicts of Interest

- Political Reform Act
 - Governmental Decision
 - Reasonably Foreseeable Effect
 - Substantial Likelihood
 - Material Financial Effect
 - Direct or Indirect; Property interests
 - Distinguishable Effect
 - Effect on Commissioner is same as that on public at large

Conflicts of Interest

- Government Code 1090
 - California Government Code Section 1090 prohibits public officials from being financially interested in contracts made by them or by the boards or commissions of which they are members.

What do you do ...

- If you have a conflict of interest
 - Announce and explain the conflict of interest
 - Reflected in minutes
 - Leave the dais
 - Do not participate in discussion or vote
 - You may speak as a member of the public
 - Government Code 1090

Incompatible Offices

- To fall within the doctrine of incompatibility of office, two elements must be present:
 - (1) the official in question must hold two public offices simultaneously; and
 - (2) there must be some potential conflict or overlap in the functions or responsibilities of the two offices.

Final point on conflict

- Reliance on City Attorney's opinion does not provide immunity under state statutes
 - Consider seeking an opinion from your personal attorney.
 - Immunity can only be obtained from the FPFC through a formal advice letter.
- Even though a public official believes that he or she is acting honestly and without the slightest intent of benefiting from participation in a decision, there may still be a violation. The conflict of interest rules in many instances are complex and although they may appear to some to be illogical, they must be kept in mind at all times.

Robert's Rules of Order

- Motions: Recognition, Move, Second, Restate, Discussion, Vote
- Chair has power to rule on questions of order
- Abstentions, Disqualifications
- Resolutions: Routine business and administrative matters requiring formal memorialization

Questions?

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Introduction to the City of Milpitas City Officials Event Calendar



“Calendar Section” of the Open Government Ordinance

The Open Government Ordinance Requires that “Members of the City Council (including the Mayor), Planning Commission and the City Manager shall maintain a monthly City Calendar form which includes all City-related appointments, meetings, including regular and special City Council and Planning Commission meetings, public events or speaking engagements, meetings with developers, meetings with consultants, meetings with lobbyists, regional meetings, and meetings of subcommittees or task forces. The description shall include the meeting’s duration, and shall include a listing of all principal individuals present at meetings with developers, meetings with consultants, and meetings with lobbyists. The Mayor, City Council, City Manager and Planning Commission members shall submit the updated calendar forms for the prior month to the City Clerk during the first week of every month, and the schedule shall be a public record subject to inspection during normal business hours at the office of the City Clerk and additionally available in electronic format on the City’s official website. Councilmembers shall be trained in the operation and procedures for entering or re-entering data into an automated calendaring system maintained on the City’s website.”

City Officials Event Calendar

Summary of the Key Points of the Calendaring Requirements:

- Members of the City Council (including the Mayor), Planning Commission and the City Manager shall maintain a monthly City Calendar
- Includes all City-related appointments, meetings, including regular and special City Council and Planning Commission meetings, public events or speaking engagements, meetings with developers, meetings with consultants, meetings with lobbyists, regional meetings, and meetings of subcommittees or task forces.
- Include the meeting's duration, a listing of all principal individuals present at meeting
- Submit the updated calendar forms for the prior month to the City Clerk during the first week of every month
- The schedule shall be a public record subject to inspection during normal business hours at the office of the City Clerk
- Available in electronic format on the City's official website.

City Officials Event Calendar

Options for Maintaining the Calendar:

- Submit a hard copy form to the City Clerk's Office with the required information prior to the end of the first week of the month indicating the prior month's events.
- Complete an electronic calendar available on the City's Website prior to the end of the first week of the month for events from the prior month.
- Maintain an electronic Calendar available on the City's Website on an ongoing basis.

Overview of City Officials' Event Calendar

Milpitas, California :: City of Milpitas Official Web Site :: - Microsoft Internet Explorer

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Address <http://www.ci.milpitas.ca.gov/default.asp> Go

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WELCOME TO THE CITY OF MILPITAS

July 26th, 2005

City Calendar

City Officials' Event Calendar

Redevelopment

Milpitas Links:

Association of Bay Area Governments (ABAG)

Business Partners for Emergency Preparedness

Building Permit Online Inquiry

Building Codes

California Codes

California State

County of Santa Clara

Health Issues

Milpitas Alliance for the Arts

Today's Weather

Milpitas, CA

Get the 10 day forecast

Pollen Reports
Airport Delays
Special Events

77 °F
Clear

Feels Like: 77 °F
Humidity: 57 %
Wind: NNW at 12 mph

Enter city/zip **GO!**

Download Desktop Weather

Quick Links

Search **Go!**

Pay Bills Online **Go!**

Today's Events **City Calendar**

Summer Concert Series at Pinewood Park, 6pm-8pm

Recycling & Source Reduction Advisory Commission Meeting, 7pm

Appreciation Awards Program

City of Milpitas

"WOW" HAVE YOU NOTICED?

Neighborhood Beautification

A neighboring home, business or the effort that an organization has invested into the City of Milpitas! Nominate a resident, community group, club, homeowner association, apartment complex, multifamily units, mobile home, business or a school within Milpitas. **Applications are available at all City public facilities, online and must be submitted by August 31, 2005.**

CATEGORIES

Attractive Single Family Residence
Attractive Multifamily Developments
Attractive Homeowners Associations
Attractive Non-residential Property
Building a Sense of Community

Fire Hydrant Flushing

Hydrant flushing is part of our routine

News Features

- The Automatic Payment Service (APS)** lets you pay your City of Milpitas Municipal Services bill automatically. Your payment will always be on time, without requiring you to write or mail a check! And it's absolutely FREE! Visit the [Utility Payment Services](#) page today to get information on the many options the City offers to pay your Utility bills.
- Spare The Air!**
- Milpitas Library to Reopen on Mondays Beginning August 29, 2005 (PDF)**
- New Passport Services Hours**
- Open Government Ordinances**

1 2 3 4

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City Officials' Event Calen...

Internet

5:55 PM

Overview of City Officials' Event Calendar

Officials' Event Calendar :: City of Milpitas :: - Microsoft Internet Explorer

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WELCOME TO THE CITY OF MILPITAS

July 2005

City of Milpitas Officials' Event Calendar

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4 Debbie Giordano Jose Esteves Armando Gomez Jr. Robert Livengood Althea Polanski	5 Debbie Giordano Jose Esteves Armando Gomez Jr. Robert Livengood Althea Polanski	6 Debbie Giordano Althea Polanski	7 Jose Esteves	8	9
10	11	12	13	14 Debbie Giordano Debbie Giordano Robert Livengood	15	16
17	18 Debbie Giordano Armando Gomez Jr.	19 Debbie Giordano	20	21 Althea Polanski	22 Debbie Giordano	23
24	25 Debbie Giordano	26 Jose Esteves Armando Gomez Jr. Robert Livengood	27 Jose Esteves	28 Debbie Giordano Jose Esteves Armando Gomez Jr. Robert Livengood	29	30

Start

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Internet 5:58 PM

Public Detail View of a Specific Event

Officials' Event Calendar :: City of Milpitas :: - Microsoft Internet Explorer

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WELCOME TO THE CITY OF MILPITAS

City of Milpitas Officials Event Calendar - Microsoft Intern...

Tuesday, July 26, 2005

Jose Esteves
Library Meeting

Event Type: Library Subcommittee Meeting
Duration: 1:0
Location:
Attendees: Unknown
Summary of Event: Unknown

July 2005

City of Milpitas Officials' Event Calendar

Tue	Wed	Thu	Fri	Sat
			1	2
5 Debbie Giordano Jose Esteves Armando Gomez Jr. Robert Livengood Althea Polanski	6 Debbie Giordano Althea Polanski	7 Jose Esteves	8	9
	13	14 Debbie Giordano Debbie Giordano Robert Livengood	15	16
17	18 Debbie Giordano Armando Gomez Jr.	19 Debbie Giordano	20	21 Althea Polanski
			22 Debbie Giordano	23
24	25 Debbie Giordano	26 Jose Esteves Armando Gomez Jr. Robert Livengood	27 Jose Esteves	28 Debbie Giordano Jose Esteves Armando Gomez Jr. Robert Livengood
			29	30

Start

Officials' Event Calendar ... City Officials' Event Calen... City of Milpitas Official...

Internet 5:59 PM

Personal Detail of Most Recent Events

City Officials Event Calendar :: - Microsoft Internet Explorer

File Edit View Favorites Tools Help

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Address http://www.ci.milpitas.ca.gov/calendar/cc_calendar/admin/view.asp Go

City Officials' Event Calendar

Home View/Edit Event Welcome jstevens!

Add Event

View/Edit Events

Add Event Type

View Event Type

Log Out

Search for In All Fields Go

Total Events: 6

Name	Type	Date	Attendee(s)	Summary
Transportation Meeting	Transportation Subcommittee Meeting	7/28/2005 <u>Duration</u> 1:0 <u>Location</u>	Unknown	Unknown
Edit Remove				
Water Commission Meeting	Santa Clara Valley Water Commission	7/27/2005 <u>Duration</u> 1:0 <u>Location</u>	Unknown	Unknown
Edit Remove				
Library Meeting	Library Subcommittee Meeting	7/26/2005 <u>Duration</u> 1:0 <u>Location</u>	Unknown	Unknown
Edit Remove				
Emergency Preparedness Council Meeting	Santa Clara County Emergency Preparedness Council	7/7/2005 <u>Duration</u> 1:0 <u>Location</u>	Unknown	Unknown
Edit Remove				
City Council Meeting	City Council Meeting	7/5/2005	City Council, City Manager, City Attorney, City Clerk, City Treasurer	Refer to the City Clerk's Minutes for a full agenda.

Start City Officials Event Cal... City Officials' Event Calen... Internet 6:01 PM